

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TK ELEVATOR CORPORATION, a
Delaware corporation;

Plaintiff,

vs.

BRET ABELS, an individual; and
SCHUMACHER ELEVATOR
COMPANY, an Iowa corporation;

Defendants.

4:21CV3116

**FINAL PROGRESSION ORDER
(AMENDED)**

IT IS ORDERED that the parties' joint motion to extend is granted. (Filing No. 56). The unexpired deadlines in the final progression order are amended as follows:

- 1) The trial and pretrial conference will not be set at this time. The status conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings currently set for August 23, 2022 at 9:00 a.m. is **continued** and will be held with the undersigned magistrate judge on **November 29, 2022 at 9:00 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 2) Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by June 23, 2022.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 3) The deadlines for identifying expert witnesses expected to testify at the trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff(s): June 27, 2022.
For the defendant(s): July 26, 2022.

- 4) The deadlines for complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff(s): August 26, 2022.
For the defendant(s): September 23, 2022.
Plaintiff(s)' rebuttal: October 10, 2022.

- 5) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is November 8, 2022.
- 6) The parties agree that as to motions to dismiss or motions for summary judgment:
- a. The deadline to file a motion is December 20, 2022.
 - b. The deadline to file response briefs is January 10, 2023.
 - c. The deadline to file reply briefs is January 24, 2023.
- 7) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is December 9, 2022.
- 8) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 9) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 10) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 26th day of April, 2022.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge